

SENATE BILL NO. 167

INTRODUCED BY E. STONINGTON

BY REQUEST OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE SANITATION IN SUBDIVISIONS LAWS; AUTHORIZING THE REVIEWING AUTHORITY TO REQUIRE EASEMENTS AND COVENANTS; REQUIRING PURCHASERS TO BE NOTIFIED OF CONDITIONS OF SUBDIVISION APPROVAL; REQUIRING AS-BUILT INSPECTIONS OF SEWAGE SYSTEMS; AUTHORIZING THE REVIEWING AUTHORITY TO REQUIRE EASEMENTS AND COVENANTS; DEFINING "ADEQUATE MUNICIPAL FACILITIES"; CONFORMING DEFINITIONS TO THOSE IN OTHER ACTS; REQUIRING THE DEPARTMENT TO ADOPT RULES REGARDING CRITERIA FOR GRANTING WAIVERS AND DEVIATIONS AND FOR EASEMENTS, COVENANTS, AGREEMENTS, AND MANAGEMENT ENTITIES; ALLOWING FOR REVIEW OF CERTAIN MAJOR AND MINOR SUBDIVISIONS BY LOCAL DEPARTMENTS AND BOARDS OF HEALTH; REQUIRING THE APPLICANT TO SUBMIT EVIDENCE THAT WATER SUPPLY SYSTEMS ARE IN COMPLIANCE WITH STATE AND LOCAL LAWS AND REGULATIONS; ELIMINATING THE MANDATORY SOIL PERCOLATION TESTING REQUIREMENT; ALLOWING FEES TO BE USED FOR INSPECTION AND ENFORCEMENT ACTIVITIES; ~~REQUIRING THAT THE CERTIFICATE OF SUBDIVISION APPROVAL BE RECORDED;~~ ~~CLARIFYING THAT A LOCAL HEALTH OFFICER MAY REQUIRE SUFFICIENT CAPACITY FOR A REPLACEMENT DRAINFIELD PRIOR TO FILING OF A PLAT OR CERTIFICATE OF SURVEY FOR A PARCEL SEGREGATED FROM A REMAINDER;~~ CLARIFYING CERTIFICATION REQUIREMENTS FOR SUBDIVISIONS EXEMPT FROM REVIEW BECAUSE ADEQUATE MUNICIPAL FACILITIES AND STORM WATER DRAINAGE WILL BE PROVIDED; REQUIRING A DEVELOPER TO GIVE NOTICE TO A LOCAL BOARD OF HEALTH BEFORE FILING AN APPLICATION FOR CERTIFICATION OF SUBDIVISION APPROVAL; REPEALING CERTAIN PROVISIONS RELATED TO DELEGATION OF REVIEW TO LOCAL GOVERNMENT; REPEALING REDUNDANT PROVISIONS; CLARIFYING PROVISIONS GOVERNING SUBDIVISION ACTIVITIES AND REVIEW AND APPROVAL OF SUBDIVISIONS; AMENDING SECTIONS 76-4-102, 76-4-104, 76-4-105, 76-4-111, 76-4-121, 76-4-122, 76-4-125, 76-4-127, 76-4-130, 76-4-131, AND 76-4-132, MCA; REPEALING SECTIONS 76-4-123, 76-4-124, AND 76-4-128, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND ~~AN~~ APPLICABILITY ~~DATE~~ DATES."

1 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

2

3 NEW SECTION. Section 1. Easements and restrictive covenants. (1) The reviewing authority may
4 require the owner of a proposed subdivision ~~to grant an easement or enter into~~ TO OBTAIN OR PROVIDE AN
5 EASEMENT OR TO GRANT AN EASEMENT OR ENTER INTO a restrictive covenant ~~in order to~~ PURSUANT TO RULES
6 ADOPTED BY THE DEPARTMENT FOR THE PURPOSE OF:

7 (a) ~~ensure~~ ENSURING the long-term operation and maintenance of water supply, storm water
8 drainage, and sewage disposal facilities;

9 (b) ~~protect~~ PROTECTING state waters; or

10 (c) ~~prohibit~~ PROHIBITING the placement of water wells within a ground water mixing zone.

11 (2) An easement or covenant required under this section must run with the land. The easement
12 OR COVENANT may be enforced by the reviewing authority. The easement OR COVENANT may not be
13 terminated without the consent of the reviewing authority.

14

15 NEW SECTION. Section 2. Notification to purchasers. The developer or owner of an approved
16 subdivision shall provide each purchaser of property within the subdivision with a copy of the plat ~~or~~
17 ~~certificate of survey~~ OR CERTIFICATE OF SURVEY and the certificate of subdivision approval specifying the
18 approved locations of water supply, storm water drainage, and sewage disposal facilities. Each subsequent
19 seller of property within the subdivision shall include within the instruments of transfer a reference to the
20 conditions of the certificate of subdivision approval. A WRITTEN VERIFICATION OF NOTICE THAT IS SIGNED BY BOTH
21 THE SELLER AND THE PURCHASER AND IS RECORDED WITH THE COUNTY CLERK AND RECORDER CONSTITUTES CONCLUSIVE
22 EVIDENCE OF COMPLIANCE WITH THIS SECTION FOR THAT TRANSACTION.

23

24 NEW SECTION. Section 3. Installation inspection. A person who owns or controls a parcel of land
25 that has been approved under this chapter for the installation of an individual or multiple-user sewage
26 system shall:

27 (1) have the system inspected during installation by the local health officer, as defined in
28 50-2-101, or by ~~a person~~ THE INSTALLER OR OTHER PERSON designated by the local health officer; and

29 (2) file with the local board of health a certification by the inspector that the system has been
30 installed in compliance with the certificate of subdivision approval and any conditions of approval.

1

2 **Section 4.** Section 76-4-102, MCA, is amended to read:

3 **"76-4-102. Definitions.** As used in this part, unless the context clearly indicates otherwise, the
4 following ~~words or phrases have the following meanings~~ definitions apply:

5 (1) "Adequate municipal facilities" means municipally, publicly, or privately owned facilities that
6 supply water, treat sewage, or dispose of solid waste for all or most properties within the boundaries of
7 a municipality and that are operating in compliance with Title 75, chapters 5 and 6.

8 ~~(1)~~(2) "Board" means the board of environmental review.

9 ~~(2)~~(3) "Department" means the department of environmental quality.

10 ~~(3)~~(4) "Extension of a public sewage ~~disposal~~ system" means a sewerline that connects two or
11 more sewer service lines to a sewer main.

12 ~~(4)~~(5) "Extension of a public water supply system" means a waterline that connects two or more
13 water service lines to a water main.

14 ~~(5)~~(6) "Facilities" means public or private facilities for the supply of water or disposal of sewage
15 or solid waste and any pipes, conduits, or other stationary method by which water, sewage, or solid
16 wastes might be transported or distributed.

17 (7) "Mixing zone" has the meaning provided in 75-5-103.

18 (8) "Public sewage system" or "public sewage disposal system" means a public sewage system
19 as defined in 75-6-102.

20 ~~(6)~~(9) "Public water supply system" ~~or "public sewage disposal system" means, respectively, a~~
21 ~~water supply or sewage disposal system that serves 10 or more families or 25 or more persons for at least~~
22 ~~60 days out of the calendar year~~ has the meaning provided in 75-6-102.

23 ~~(7)~~(10) "Registered professional engineer" means a person licensed to practice as a professional
24 engineer under Title 37, chapter 67.

25 ~~(8)~~(11) "Registered sanitarian" means a person licensed to practice as a sanitarian under Title 37,
26 chapter 40.

27 ~~(9)~~(12) "Reviewing authority" means the department or a local department or board of health
28 certified to conduct a review under 76-4-104.

29 ~~(10)~~(13) "Sanitary restriction" means a prohibition against the erection of any dwelling, shelter,
30 or building requiring facilities for the supply of water or the disposition of sewage or solid waste or the

1 construction of water supply or sewage or solid waste disposal facilities until the department has approved
2 plans for those facilities.

3 ~~(11)~~(14) "Sewer service line" means a sewerline that connects a single building or living unit to
4 a public ~~sewer~~ sewage system or to an extension of a public sewage system.

5 ~~(12)~~(15) ~~"Solid wastes" means all putrescible and nonputrescible solid wastes (except body~~
6 ~~wastes), including garbage, rubbish, street cleanings, dead animals, yard clippings, and solid market and~~
7 ~~solid industrial wastes~~ "Solid waste" has the meaning provided in 75-10-103.

8 ~~(13)~~(16) "Subdivision" means a division of land or land so divided that creates one or more parcels
9 containing less than 20 acres, exclusive of public roadways, in order that the title to or possession of the
10 parcels may be sold, rented, leased, or otherwise conveyed and includes any resubdivision and any
11 condominium or area, regardless of size, that provides permanent multiple space for recreational camping
12 vehicles or mobile homes.

13 ~~(14)~~(17) "Water service line" means a waterline that connects a single building or living unit to a
14 public water supply system or to an extension of a public water supply system."

15

16 **Section 5.** Section 76-4-104, MCA, is amended to read:

17 **"76-4-104. Rules for administration and enforcement.** (1) The department shall, subject to the
18 provisions of 76-4-135, adopt reasonable rules, including adoption of sanitary standards, necessary for
19 administration and enforcement of this part.

20 (2) The rules and standards must provide the basis for approving ~~subdivision plats~~ subdivisions
21 for various types of public and private water supplies, sewage disposal facilities, storm water drainage
22 ways, and solid waste disposal, ~~both public and private, and~~. The rules and standards must be related to:

23 (a) size of lots;

24 (b) contour of land;

25 (c) porosity of soil;

26 (d) ground water level;

27 (e) distance from lakes, streams, and wells;

28 (f) type and construction of private water and sewage facilities; and

29 (g) other factors affecting public health and the quality of water for uses relating to agriculture,
30 industry, recreation, and wildlife.

(3) ~~(a) The~~ Except as provided in subsection (3)(b), the rules must provide for the review of ~~the following divisions of land subdivisions~~ by a local department or board of health, as described in Title 50, chapter 2, part 1, if the local department or board of health employs a registered sanitarian or a registered professional engineer and if the department certifies under subsection (4) that the local department or board is competent to conduct the review. ~~these divisions of land:~~

~~——— (a) divisions of land containing five or fewer parcels, whenever each parcel will contain individual onsite water and sewage disposal facilities; and~~

(b) (i) Except as provided in 75-6-121 and subsection (3)(b)(ii) of this section, a local department or board of health may not review public water supply systems, public sewage systems, or extensions of or connections to these systems.

(ii) A local department or board of health may be certified to review divisions of land subdivisions proposed to connect to existing municipal water and wastewater systems previously approved by the department if no extension of the systems is required.

(4) The department shall also adopt standards and procedures for certification and maintaining certification to ensure that a local department or board of health is competent to review the ~~divisions of land and subdivisions~~ as described in subsection (3).

(5) The department shall review those ~~divisions of land and subdivisions~~ described in subsection (3) if:

(a) a proposed ~~division of land subdivision~~ lies within more than one jurisdictional area and the respective governing bodies are in disagreement concerning approval of or conditions to be imposed on the proposed subdivision; or

(b) the local department or board of health elects not to be certified.

(6) The rules must further provide for:

(a) providing the reviewing authority with a copy of the plat ~~or certificate of survey~~ OR CERTIFICATE OF SURVEY SUBJECT TO REVIEW UNDER THIS PART and other documentation showing the layout or plan of development, including:

(i) total development area; and

(ii) total number of proposed dwelling units and structures requiring facilities for water supply or sewage disposal;

(b) adequate evidence that a water supply that is sufficient in terms of quality, quantity, and

dependability will be available to ensure an adequate supply of water for the type of subdivision proposed;

(c) evidence concerning the potability of the proposed water supply for the subdivision;

(d) adequate evidence that a sewage disposal facility is sufficient in terms of capacity and dependability;

(e) standards and technical procedures applicable to storm drainage plans and related designs, in order to ensure proper drainage ways;

(f) standards and technical procedures applicable to sanitary sewer plans and designs, including soil percolation testing and required percolation rates and site design standards for on-lot sewage disposal systems when applicable;

(g) standards and technical procedures applicable to water systems;

(h) standards and technical procedures applicable to solid waste disposal;

(i) criteria for granting waivers and deviations from the standards and technical procedures adopted under subsections (6)(e) through (6)(h):

~~(j)~~ (j) evidence to establish that, if a public water supply system or a public sewage disposal system is proposed, provision has been made for the system and, if other methods of water supply or sewage disposal are proposed, evidence that the systems will comply with state and local laws and regulations that are in effect at the time of submission of the preliminary or final plan or plat; and

(k) evidence to demonstrate that appropriate easements, covenants, agreements, and management entities have been established to ensure the protection of human health and state waters and to ensure the long-term operation and maintenance of water supply, storm water drainage, and sewage disposal facilities.

(7) If the reviewing authority is a local department or board of health, it shall, ~~upon approval of a division of land under this part, notify the department of the approval and submit to the department a copy of the approval statement~~ its recommendation for approval or disapproval of the subdivision NOT LATER THAN 50 DAYS FROM ITS RECEIPT OF THE SUBDIVISION APPLICATION. The department shall make a final decision on the subdivision within 10 days after receiving the recommendation of the local reviewing authority, BUT NOT LATER THAN 60 DAYS AFTER THE SUBMISSION OF A COMPLETE APPLICATION, AS PROVIDED IN 76-4-125.

(8) Review and certification or denial of certification that a division of land is not subject to sanitary restrictions under this part may occur only under those rules in effect ~~at the time plans and~~

specifications are when a complete application is submitted to the department reviewing authority, except that in cases in which current rules would preclude the use for which the lot was originally intended, the applicable requirements in effect at the time the lot was recorded must be applied. In the absence of specific requirements, minimum standards necessary to protect public health and water quality apply.

(9) The reviewing authority may not deny or condition a ~~certification that a division of land is not subject to sanitary restrictions~~ certificate of subdivision approval under this part unless it provides a written statement to the applicant detailing the circumstances of the ~~certification~~ denial or condition imposition.

The statement must include:

- (a) the reason for the denial or condition imposition;
- (b) the evidence that justifies the denial or condition imposition; and
- (c) information regarding the appeal process for the denial or condition imposition."

Section 6. Section 76-4-105, MCA, is amended to read:

"76-4-105. ~~Lot Subdivision~~ fees -- subdivision program funding. (1) The department shall adopt rules setting forth fees that do not exceed actual costs ~~to the department in for~~ for reviewing plats and subdivisions, conducting inspections pursuant to 76-4-107, and conducting enforcement activities pursuant to 76-4-108. The rules must provide for a schedule of fees to be paid by the applicant ~~for plat or subdivision review~~ to the department ~~for deposit in the state special revenue fund~~ or, if applicable, to another reviewing authority for deposit in the general fund of the reviewing authority's jurisdiction. The fees must be used for review of plats and subdivisions, conducting inspections pursuant to 76-4-107, and conducting enforcement activities pursuant to 76-4-108. The fees must be based on the complexity of the subdivision, including but not limited to:

- (a) number of lots in the subdivision;
- (b) the type of water system to serve the development;
- (c) the type of sewage disposal to serve the development; and
- (d) the degree of environmental research necessary to supplement the review procedure.

(2) The department shall adopt rules to determine the distribution of fees to the local ~~governing body, as provided in 76-4-128~~ reviewing authority for reviews conducted pursuant to 76-4-104, inspections conducted pursuant to 76-4-107, and enforcement activities conducted pursuant to 76-4-108.

~~(3) A fee as described in this section is not required for the review of subdivisions in which~~

1 divisions are made for the purpose of relocating common boundary lines unless the division will result in
2 the installation of additional water supply or sewage disposal facilities.

3 ~~(4) Fees collected by the department under this section must be deposited in the account in the~~
4 ~~state special revenue fund provided for in 76-4-132."~~

5

6 **Section 7.** Section 76-4-111, MCA, is amended to read:

7 **"76-4-111. Exemption for certain condominiums and subdivisions.** (1) Condominiums constructed
8 on land divided in compliance with the Montana Subdivision and Platting Act and this part are exempt from
9 provisions of this part.

10 (2) Whenever a parcel of land has previously been reviewed under either department requirements
11 or local health requirements and has received approval for a given number of living units for rental or lease,
12 the construction of the same or a fewer number of condominium units on that parcel is not subject to the
13 provisions of this part, provided that no new extension of a public water supply system or extension of
14 a public sewage disposal system is required ~~as defined in this part.~~

15 ~~(3) Subdivisions located within jurisdictional areas that have adopted growth policies pursuant to~~
16 ~~chapter 1 and first- or second-class municipalities that will be provided with municipal facilities for the~~
17 ~~supply of water and disposal of sewage and solid waste are not subject to the provisions of this part;~~
18 ~~except that, if the municipal facilities for water supply or sewage disposal to serve the subdivision~~
19 ~~constitute either an extension of a public water supply system or a public sewage disposal system, the~~
20 ~~subdivision must be reviewed in accordance with the provisions of 76-4-105, 76-4-124, and 76-4-127."~~

21

22 **Section 8.** Section 76-4-121, MCA, is amended to read:

23 **"76-4-121. Restrictions on subdivision activities.** ~~Until the local governing body has certified that~~
24 ~~a subdivision is to be provided with municipal facilities for a supply of water and disposal of sewage and~~
25 ~~solid waste or that the reviewing authority has indicated that the subdivision is subject to no restrictions,~~
26 ~~a~~ A person may not file a subdivision plat with a county clerk and recorder, make disposition dispose of
27 any lot within a subdivision, erect any facility for the supply of water or disposal of sewage or solid waste,
28 erect any building or shelter in a subdivision ~~which~~ that requires facilities for the supply of water or
29 disposal of sewage or solid waste, or occupy any permanent buildings in a subdivision until the subdivision
30 plat or certificate of survey OR CERTIFICATE OF SURVEY SUBJECT TO REVIEW UNDER THIS PART has been accepted

1 for filing by the county clerk and recorder in accordance with 76-4-122 and recorded pursuant to Title 70,
2 chapter 21."

3

4 **Section 9.** Section 76-4-122, MCA, is amended to read:

5 **"76-4-122. Filing or recording of noncomplying ~~map or plat or certificate of survey~~ OR CERTIFICATE**
6 **~~OF SURVEY~~ prohibited.** (1) The county clerk and recorder may not file or record any ~~map or plat or certificate~~
7 ~~of survey~~ OR CERTIFICATE OF SURVEY SUBJECT TO REVIEW UNDER THIS PART showing a subdivision unless it
8 complies with the provisions of this part.

9 (2) A county clerk and recorder may not accept a subdivision plat ~~or certificate of survey~~ OR
10 CERTIFICATE OF SURVEY SUBJECT TO REVIEW UNDER THIS PART for filing until one of the following conditions has
11 been met:

12 (a) ~~whenever reviewing authority approval is necessary,~~ the person wishing to file the plat ~~or~~
13 ~~certificate of survey~~ OR CERTIFICATE OF SURVEY has obtained approval of the local health officer having
14 jurisdiction and has filed the approval with the reviewing authority; ~~and the reviewing authority has~~
15 ~~indicated by stamp or certificate~~ a certificate of subdivision approval has been issued pursuant to 76-4-125
16 indicating that ~~it~~ the reviewing authority has approved the ~~plat and plans and specifications~~ subdivision
17 application and that the subdivision is not subject to a sanitary restriction; ~~or~~

18 (b) ~~whenever reviewing authority approval is not necessary,~~ the person wishing to file the plat ~~or~~
19 ~~certificate of survey~~ OR CERTIFICATE OF SURVEY has obtained a certificate from the governing body pursuant
20 to 76-4-127 that the subdivision is ~~inside the~~ within a jurisdictional area ~~of that has adopted~~ a growth
21 policy ~~adopted~~ pursuant to chapter 1 of this title or within a class 1 or class 2 first-class or second-class
22 municipality, as described in 7-1-4111, and will be provided with adequate municipal facilities ~~for the~~
23 ~~supply of water and disposal of sewage and solid waste~~ and adequate storm water drainage; or

24 (c) ~~the person wishing to file the plat or certificate of survey~~ OR CERTIFICATE OF SURVEY has placed
25 on the plat or certificate of survey OR CERTIFICATE OF SURVEY an acknowledged certification that the
26 subdivision is exempt from review under this part. The certification must quote in its entirety the wording
27 of the applicable exemption."

28

29 **Section 10.** Section 76-4-125, MCA, is amended to read:

30 **"76-4-125. Review of ~~development plans~~ subdivision application -- land divisions excluded from**

~~review. (1) Plans and specifications of~~ Except as provided in subsection (2), an application for review of
~~a subdivision, as defined in this part, must be submitted to the reviewing authority, and the reviewing~~
~~authority shall indicate by certificate that it has approved the plans and specifications and that the~~
~~subdivision is not subject to a sanitary restriction. The plan review by the reviewing authority must be as~~
follows:

(a) At any time after the developer has submitted an application under the Montana Subdivision
and Platting Act, the developer shall present a subdivision application to the reviewing authority. The
application must include a preliminary plan of plans and specifications for the proposed development,
whatever information the developer feels necessary for its subsequent review, and information required
by the reviewing authority. Subdivision fees assessed by the reviewing authority must accompany the
application. If the proposed development includes onsite sewage disposal facilities, the developer shall
notify the designated agent of the local board of health prior to presenting the subdivision application to
the reviewing authority. The agent may conduct a preliminary site assessment to determine whether the
site meets applicable state and local requirements.

(b) ~~The reviewing authority shall give final action of~~ department shall make a final decision on the
proposed plan subdivision within 60 days after the submission of a complete application and payment of
fees to the reviewing authority unless an environmental impact statement is required, at which time this
deadline may be increased to 120 days. THE REVIEWING AUTHORITY MAY NOT REQUEST ADDITIONAL INFORMATION
FOR THE PURPOSE OF EXTENDING THE TIME ALLOWED FOR A REVIEW AND FINAL DECISION ON THE PROPOSED SUBDIVISION.
If the department approves the subdivision, the department shall issue a certificate of subdivision approval
indicating that it has approved the plans and specifications and that the subdivision is not subject to a
sanitary restriction.

(2) A subdivision excluded from the provisions of chapter 3 must be submitted for review
according to the provisions of this part, except that the following divisions or parcels, unless the
exclusions are used to evade the provisions of this part, are not subject to review:

(a) the exclusions cited in 76-3-201 and 76-3-204;

(b) divisions made for the purpose of acquiring additional land to become part of an approved
parcel, provided that ~~a dwelling or structure requiring~~ water or sewage disposal facilities may not be
~~erected~~ constructed on the additional acquired parcel and that the division does not fall within a previously
platted or approved subdivision;

(c) divisions made for purposes other than the construction of water supply or sewage and solid waste disposal facilities as the department specifies by rule; ~~and~~

(d) divisions located within jurisdictional areas that have adopted growth policies pursuant to chapter 1 or within first-class or second-class municipalities for which the governing body certifies, pursuant to 76-4-127, that adequate storm water drainage and adequate municipal facilities will be provided; and

~~(d)~~(e) subject to the provisions of subsection (3), a remainder of an original tract created by segregating a parcel from the tract for purposes of transfer; if:

(i) the remainder is served by a public or ~~multifamily~~ multiple-user sewage system approved before January 1, 1997, pursuant to local regulations or this chapter; or

(ii) the remainder is 1 acre or larger and has an individual sewage system that was constructed prior to April 29, 1993, and, if required when installed, was approved pursuant to local regulations or this chapter.

(3) Consistent with the applicable provisions of 50-2-116(1)(i), a local health officer may require that, prior to the ~~transfer of filing of a plat or a certificate of survey~~ OR A CERTIFICATE OF SURVEY SUBJECT TO REVIEW UNDER THIS PART for the parcel to be segregated from the remainder referenced in subsection ~~(2)(d)(ii)~~ (2)(e)(ii), the remainder include acreage or features sufficient to accommodate a replacement drainfield."

Section 11. Section 76-4-127, MCA, is amended to read:

"76-4-127. Notice of certification that ~~water and waste services~~ adequate storm water drainage and adequate municipal facilities will be provided by local government. (1) ~~When a subdivision is reviewed under the provisions of 76-4-124~~ To qualify for the exemption from review set out in 76-4-125(2)(d), the local governing body, as defined in 76-3-103, shall, within 20 days after receiving preliminary plat approval under the Montana Subdivision and Platting Act, send notice of certification to the reviewing authority that a subdivision has been submitted for approval and that adequate storm water drainage and adequate municipal facilities for the supply of water and disposal of sewage and solid waste will be provided for the subdivision.

(2) The notice of certification must include the following:

(a) the name and address of the applicant;

(b) a copy of the preliminary plat or a final plat when a preliminary plat is not necessary;

- (c) the number of proposed parcels in the subdivision;
- (d) a copy of any applicable zoning ordinances in effect;
- (e) how construction of the sewage disposal and water supply systems or extensions will be financed;
- (f) certification that the subdivision is within a jurisdictional area that has adopted a growth policy pursuant to chapter 1 of this title or within a first-class or second-class municipality, as described in 7-1-4111, and a copy of the growth policy, when applicable, if one has not yet been submitted to the reviewing authority;
- (g) the relative location of the subdivision to the city or town; ~~and~~
- (h) certification that adequate municipal facilities for the supply of water and disposal of sewage and solid waste are available or will be provided within 1 year after the notice of certification is issued;
- (i) if water supply, sewage disposal, or solid waste facilities are not municipally owned, certification from the facility owners that adequate facilities are available; and
- (j) certification that the governing body has reviewed and approved plans to ensure adequate storm water drainage."

Section 12. Section 76-4-130, MCA, is amended to read:

"76-4-130. Deviation from plans or specifications. A person may not construct or use a facility ~~which that~~ deviates from the ~~plans and specifications filed with the reviewing authority~~ certificate of subdivision approval until the reviewing authority has approved the deviation."

Section 13. Section 76-4-131, MCA, is amended to read:

"76-4-131. Applicability of public water supply laws. The exclusions provided for in 76-4-121, ~~through 76-4-122, and 76-4-125 76-4-130 shall do~~ not relieve any person of the duty to comply with the requirements of Title 75, chapter 6. An extension of a public water supply system or an extension of a public sewage system to serve a subdivision must be reviewed in accordance with the provisions of Title 75, chapter 6."

Section 14. Section 76-4-132, MCA, is amended to read:

"76-4-132. Special revenue account -- deposit and ~~disbursement~~ use of lot fees. (1) All ~~lot~~ fees

collected by the department under 76-4-105 must be deposited in an account in the state special revenue fund ~~for implementation of the subdivision review program as provided in this part.~~

(2) Funds in the account established in subsection (1) may be used only ~~to pay department costs of implementation of the subdivision review program as provided in this part~~ 76-4-105."

NEW SECTION. **Section 15. Repealer.** Sections 76-4-123, 76-4-124, and 76-4-128, MCA, are repealed.

NEW SECTION. **Section 16. Codification instruction.** [Sections 1 through 3] are intended to be codified as an integral part of Title 76, chapter 4, part 1, and the provisions of Title 76, chapter 4, part 1, apply to [sections 1 through 3].

NEW SECTION. **Section 17. Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 18. Applicability.** ~~Subject to 76-4-104(8)~~ (1) EXCEPT AS PROVIDED IN SUBSECTION (2), [this act] applies to subdivision applications submitted to the reviewing authority after [the effective date of this act].

(2) [SECTION 1] APPLIES TO SUBDIVISION APPLICATIONS SUBMITTED TO THE REVIEWING AUTHORITY AFTER THE EFFECTIVE DATE OF THE RULES IMPLEMENTING [SECTION 1].

- END -